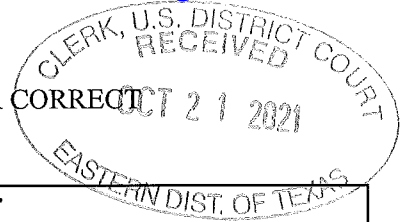


AO 243 (Rev. 09/17)

MOTION UNDER 28 U.S.C. § 2255 TO VACATE, SET ASIDE, OR CORRECT
SENTENCE BY A PERSON IN FEDERAL CUSTODY



United States District Court		District	EAST TEXAS
Name (under which you were convicted):		Docket or Case No.:	
HEON JONG YOO		6:18CR16 / 19-40465	
Place of Confinement:		Prisoner No.:	
UNITED STATES OF AMERICA		Movant (include name under which convicted)	
V.		HEON JONG YOO	

6:21CV415 JDK/KNM

MOTION

1. (a) Name and location of court which entered the judgment of conviction you are challenging:

United States District Court at Eastern District of Texas
Tyler Division

(b) Criminal docket or case number (if you know): 6:18CR16.

2. (a) Date of the judgment of conviction (if you know):

(b) Date of sentencing: 2019 05 14 / 2020 10 21

3. Length of sentence: 97 months on 2019 05 14, 41^{months} on 2020 10 21

4. Nature of crime (all counts):

18 USC § 922(g)(4) COUNT 8 (Reversed)
18 USC § 924(a)(1)(A) Count 1-7 (affirmed)

5. (a) What was your plea? (Check one)

(1) Not guilty ☒

(2) Guilty ☐

(3) Nolo contendere (no contest) ☐

6. (b) If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, what did you plead guilty to and what did you plead not guilty to?

6. If you went to trial, what kind of trial did you have? (Check one)

Jury ☒

Judge only ☐

7. Did you testify at a pretrial hearing, trial, or post-trial hearing?

Yes ☒

No ☐

AO 243 (Rev. 09/17)

8. Did you appeal from the judgment of conviction? Yes ☒ No ☐

9. If you did appeal, answer the following:

(a) Name of court: 5TH CIRCUIT.(b) Docket or case number (if you know): 19-40465(c) Result: Count 8 Reversed, Count 1-7 Affirmed.(d) Date of result (if you know): 20200604(e) Citation to the case (if you know): 813 Fed. Appx. 949

(f) Grounds raised:

24(a)(1)(A) [1. Jurisdictional challenges to 924(a)(1)(A)
 2. National of the US.
 3. "Information Required to be kept" = Name, age, address

22(g)(4) [4. Never been informed of the prohibition label properly
 5. Never had a hearing, thus not adjudication nor commitment

(g) Did you file a petition for certiorari in the United States Supreme Court? Yes ☒ No ☐

If "Yes," answer the following:

(1) Docket or case number (if you know): 20-550(2) Result: Certiorari Denied(3) Date of result (if you know): 20201207(4) Citation to the case (if you know): 141 S. Ct. 904

(5) Grounds raised:

Same grounds above for 924(a)(1)(A), with a little more legal arguments to support my grounds. + I would not have been prosecuted for 924(a)(1)(A) charge w/o 922(g)(4) label against me.

10. Other than the direct appeals listed above, have you previously filed any other motions, petitions, or applications, concerning this judgment of conviction in any court?

Yes ☐ No ☒

11. If your answer to Question 10 was "Yes," give the following information:

(a) (1) Name of court: _____

(2) Docket or case number (if you know): _____

(3) Date of filing (if you know): _____

AO 243 (Rev. 09/17)

- (4) Nature of the proceeding: _____
- (5) Grounds raised: _____

(6) Did you receive a hearing where evidence was given on your motion, petition, or application?

Yes ☐ No ☐

(7) Result: _____

(8) Date of result (if you know): _____

(b) If you filed any second motion, petition, or application, give the same information:

(1) Name of court: _____

(2) Docket of case number (if you know): _____

(3) Date of filing (if you know): _____

(4) Nature of the proceeding: _____

(5) Grounds raised: _____

(6) Did you receive a hearing where evidence was given on your motion, petition, or application?

Yes ☐ No ☐

(7) Result: _____

(8) Date of result (if you know): _____

(c) Did you appeal to a federal appellate court having jurisdiction over the action taken on your motion, petition, or application?

(1) First petition: Yes ☐ No ☐

(2) Second petition: Yes ☐ No ☐

(d) If you did not appeal from the action on any motion, petition, or application, explain briefly why you did not:

AO 243 (Rev. 09/17)

12. For this motion, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground. Any legal arguments must be submitted in a separate memorandum.

GROUND ONE: Detention at County Jail w/o proper resources made it impossible for me to properly self-represent and litigate/fight my case.

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

1. Confined to Smith County Jail 20180406 – 20180426
Gregg County Jail 20180426 – 20190516.
2. County Jails were significantly below the minimum required standard.
3. The county jails ~~did~~ not have law library.
4. It was impossible for me to authenticate documents, call proper witnesses, or ~~to~~ receive the due process guaranteed by the 5th and the 6th Amendments to ~~to~~ adequately fight my case.
5. Robert Schroeder never transferred me to a facility w/o a law library access upon decision to ~~keep~~ keep me detained, as he promised on 20181010 hearing.
6. I was entitled to bail legally and factually, but fraudulently detained see the case 6:18 cv 655. and its main petition.

(b) Direct Appeal of Ground One:

- (1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐

No ☒

- (2) If you did not raise this issue in your direct appeal, explain why:

My atty believed that this was a stronger case for 2255.

(c) Post-Conviction Proceedings:

- (1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☐

No ☒

- (2) If you answer to Question (c)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

- (3) Did you receive a hearing on your motion, petition, or application?

Yes ☐

No ☐

AO 243 (Rev. 09/17)

(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐ No ☐

(5) If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal?

Yes ☐ No ☐

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue:

and other legality, letter of the law

GROUND TWO: The statutes, caselaws, of 924(a)(1)(A) is
vague, thus void for vagueness.

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

1. ~~Information~~ What pertains to the "Information Required to be kept" is not clearly defined, and vague on 18 USC § 924(a)(1)(A).
2. The warning label and the instructions on the form 4473 are also not that clear.
3. Statutes and ^{even} Courts could not agree on what "Information required to be kept" pertains to. (According to 18 USC § 922(b)(5) and (s)(1) they are name, age, and address)
4. Citizenship question ← is it information required to be kept pursuant to the statutes, case laws, and letter and spirit of the law?

(b) Direct Appeal of Ground Two:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☒

AO 243 (Rev. 09/17)

(2) If you did not raise this issue in your direct appeal, explain why:

Van Cleet believed this was better for Habeas, only the fact
 (c) **Post-Conviction Proceedings:** *924(a)(1)(A) pertains to name, age, address was raised.*

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☐ No ☒

(2) If you answer to Question (c)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion, petition, or application?

Yes ☐ No ☐

(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐ No ☐

(5) If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal?

Yes ☐ No ☐

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue: _____

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

- (b) **Direct Appeal of Ground Three:**

- Yes ☐ No ☒

- Van Cleet was going to mention it partially but the Certification was denied.

Yes ☐ No ☒

- Type of motion or petition:

Name and location of the court where the motion or petition was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

- Yes ☐ No ☐

- Yes ☐ No ☐

- Yes ☐ No ☐

Continuation of Ground Three

7. Judges of all levels used “rubber stamp” doctrine against me, copying and pasting what Coan, Machicek, and Hagan said (5th Circuit Panel judge almost completely disregarded Van Cleef’s argument regarding the 18 USC § 924(a)(1)(A) charge and just copied and pasted what Hagan said.), even prosecuting from the bench.

8. Although the due process requirement for a hearing for a mental health commitment was clearly established under Addington v. Texas 441 US 418 US (1979) and 34 USC § 40911(c)(1)(C), Schroeder just agreed with Coan and Machicek and refused to acquit me.

9. The ATF unlawfully stole my firearms under “administrative forfeiture”, filing a search warrant application targeting my political views and then going through “administrative forfeiture” without notifying me. When I filed motions regarding it, Frank Coan lied over and over again stating that I was notified. Then ATF sent me another form to notify me and allowing me to challenge the forfeiture admitting that I never was notified, which then Coan changed his words stating “perhaps he did not receive due to transfer to Gregg County Jail.”

AO 243 (Rev. 09/17)

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue:

GROUND FOUR: Jury bias / Lack of impartial trial.

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

1. East Texas local news coverage about me. would have biased the jury.
2. Motion to change venue was denied at the last minute before trial.
3. My demand for a bench trial, despite the fact that the prosecution did not object to it, and despite ~~the~~ the case being purely legal matter, was denied.
4. Knowing that I am not a Christian, the court clerk made me swear in on the Christian God in front of jurors from a heavily christian region. When I refused to swear on the Christian God, the jurors' perception of me deteriorated even further, to the best of my knowledge.

(b) Direct Appeal of Ground Four:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐No ☒

(2) If you did not raise this issue in your direct appeal, explain why:

Van Cleet decided this would be a habeas matter.

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☐No ☒

(2) If you answer to Question (c)(1) is "Yes," state:

AO 243 (Rev. 09/17)

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion, petition, or application?

Yes ☐ No ☐

(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐ No ☐

(5) If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal?

Yes ☐ No ☐

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue: _____

13. Is there any ground in this motion that you have not previously presented in some federal court? If so, which ground or grounds have not been presented, and state your reasons for not presenting them:

~~Grounds~~ ~~2~~

Ground 3: ~~Not~~ ~~Presented~~ Preserved for Habeas action.

Ground 2: Not raised on direct appeal, other than 924(a)(1)(A) does not pertain to citizenship question, but to name, age, and address.

(Ground 1 was used on 6:18 cv 655 to get transferred to a FDC or be released, ~~and~~
Ground 4 was lightly touched on the certiorari petition.)

AO 243 (Rev. 09/17)

14. Do you have any motion, petition, or appeal now pending (filed and not decided yet) in any court for the you are challenging? Yes ☒ No ☐

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, and the issues raised.

4:20 CV 665 : North TX case, 28 USC § 1361 mandamus case to compel FBI to drop the 922(g)(4) entries against me.
6:20 CV 401 : Bivens action against USMS of East TX and Gregg County sheriff for detention.

15. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment you are challenging:

(a) At the preliminary hearing:

N/A

(b) At the arraignment and plea:

Kenneth Hawk on 20180406, Mick Mickelson on 20180423, myself on 20180925

(c) At the trial:

Represented myself.

(d) At sentencing:

Represented myself.

(e) On appeal:

L. Charles Van Cleef.

(f) In any post-conviction proceeding:

N/A

(g) On appeal from any ruling against you in a post-conviction proceeding:

N/A

16. Were you sentenced on more than one court of an indictment, or on more than one indictment, in the same court and at the same time? Yes ☐ No ☒

17. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging? Yes ☐ No ☒

(a) If so, give name and location of court that imposed the other sentence you will serve in the future:

(b) Give the date the other sentence was imposed:

(c) Give the length of the other sentence:

(d) Have you filed, or do you plan to file, any motion, petition, or application that challenges the judgment or sentence to be served in the future? Yes ☐ No ☐

AO 243 (Rev. 09/17)

18. TIMELINESS OF MOTION: If your judgment of conviction became final over one year ago, you must explain why the one-year statute of limitations as contained in 28 U.S.C. § 2255 does not bar your motion.*

N/A

* The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") as contained in 28 U.S.C. § 2255, paragraph 6, provides in part that:

A one-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of –

- (1) the date on which the judgment of conviction became final;
- (2) the date on which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, if the movant was prevented from making such a motion by such governmental action;
- (3) the date on which the right asserted was initially recognized by the Supreme Court, if that right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
- (4) the date on which the facts supporting the claim or claims presented could have been discovered through the exercise of due diligence.

AO 243 (Rev. 09/17)

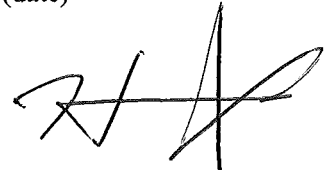
Therefore, movant asks that the Court grant the following relief:

Vacate / Overturn the conviction.
or any other relief to which movant may be entitled.

Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct and that this Motion under 28 U.S.C. § 2255 was placed in the ~~prison~~ mailing system on 2021-10-14.
International Year (month, date, ~~year~~)

Executed (signed) on 2021-10-14 (date)



Signature of Movant

If the person signing is not movant, state relationship to movant and explain why movant is not signing this motion.